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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,686	02/07/2001	Kevin Guarino	600-A01-001	4092

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EXAMINER

DASS, HARISH T

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 08/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/778,686

Applicant(s)

GUARINO ET AL.

Examiner

Harish T Dass

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 February 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/17/01</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lange (US Pat. 6,321,212) in view of Alkin "Fee-for-all", Financial World v166n5 PP: 64-67 May 20, 1997 (hereinafter Alkin).

Re. Claims 1, 9, 13, Lange discloses systems and methods for demand-based trading of financial products having demand-based adjustable returns, and determining those returns [see entire document particularly, abstract; C1 L20 to C14 L67], a computer network interface [Figures 2, 6; C88 L25-L51; C99 L16-L35], a computer server coupled to the computer network interface for processing financial transaction requests received from users across a computer network [Figures 1-2], a database [Figure 4; C92 L33-L53], receiving stock trade requests from users across a wide area network [abstract ; Figures 1 (#140), 2, 4-5, 10 ; C9 L23-27; C88 L25-L51; C89 L6-L41], and limiting stock trade requests made by at least one of the users according to a contract associated with the at least one user, the contract limiting stock trades requested by the user according to at least one of the time of a stock trade request, the user's equity in the requested stock trade transaction [abstract; C9 L23-27; C6 L4-L31; C8 L18-L64; C10 L43-L57;

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C65 L1-L23] and local area network (network architecture use for small or limited area) [figure 1-2]. Lange does not explicitly disclose the number of stock trades permitted for the user. However, Alkin discloses this step (see the document) to restrict number of free trade. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the disclosures of Lange and Alkin to provide customize fee for those trade above the number of free trades.

Re. Claims 2-3, 14, Lange discloses wherein the computer network is a wide area network, wherein the computer network is the Internet and the computer server operates with a web server to provide users access to the financial transaction administration system to place financial transaction requests via a web page [see Re. claims 1, 9, 13 above].

Re. Claim 4, Lange discloses wherein the users place financial transaction requests and receive confirmation of their transactions via the computer server [C96 L38-L67].

Re. Claims 5 and 15-16, Lange discloses wherein the computer network is the Internet and the computer server operates with a web server to provide users access to the financial transaction administration system to place financial transaction requests via a web page, and [Figures 1-2, 5 (#401, 402), 6; C99 L16-L35]. Lange does not explicitly disclose wherein the users receive confirmation of their requested transactions via emails across the Internet and confirming stock trade requests processed from

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particular users by sending email messages to the particular users that placed the stock trade requests. However, email is well known and widely used for financial transaction to inform the investor of the status of the order.

Re. Claims 6-8 and 10-12, Lange discloses wherein the users place financial transaction requests comprising stock trade requests, and wherein one of the at least one contract for each user is an equity empowered trading contract, and wherein each user places stock trade requests according to the limitations of their associated at least one equity empowered trading contract [C1 L35-L51; C6 L4-L31; C8 L18-L64; C10 L43-L57; C65 L1-L23].

### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 CFR ' 1.111 (c) to consider the references fully when responding to this action.

*US 5,819,238 to Fernholz, Oct. 6, 1998 "Apparatus and accompanying methods for automatically modifying a financial portfolio through dynamic re-weighting based on a non-constant function of current capitalization weights" discloses an apparatus and methods for automatically modifying a financial portfolio having a pre-defined universe of securities, such as, e.g., an index fund, that tracks a given capitalization weighted index, through dynamic re-weighting of a position held in each such security.*

*US 6,594,643 to Freeny, Jr. Jul. 15, 2003 "Automatic stock trading system"*  
*discloses a system for automatically trading real investment items desirably on at least one trading exchange based on predetermined conditions, includes a data interface for receiving investment data identifying at least one item capable of being traded and containing information uniquely associated with the item and the trading computer receives predetermined trading criteria for making a trade.*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harish T Dass whose telephone number is 703-305-4694. The examiner can normally be reached on 8:00 AM to 4:50 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S Sough can be reached on 703-308-0505. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Harish T Dass  
Examiner  
Art Unit 3628



8/19/04

JEFFREY PWU  
PRIMARY EXAMINER